

Panaji, 28th March, 2013 (Chaitra 7, 1935)

SERIES II No. 52

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

*Note:- There is one Extraordinary issue to the Official Gazette, Series II No. 51 dated 21-03-2013 namely, Extraordinary dated 22-03-2012 from pages 1727 to 1728 regarding Notification from Department of Finance (Office of the Commissioner of Commercial Taxes).*

### GOVERNMENT OF GOA

#### Department of Animal Husbandry & Veterinary Services

Directorate of Animal Husbandry & Veterinary Services

#### Order

No. 2/15/95-AH (part)/6807

On recommendation of the Goa Public Service Commission vide their letter No. COM/II/12/3(1)/08/377 dated 06-03-2013, Government is pleased to lift the probation of below mentioned 3 Deputy Directors of Department of Animal Husbandry & Veterinary Services, with immediate effect and confirm them in the same grade.

1. Dr. H. Faleiro, Deputy Director.
2. Dr. B. Braganza, Deputy Director.
3. Dr. Ernest D'Costa, Deputy Director.

By order and in the name of the Governor of Goa.

Dr. B. Braganza, Director & ex officio Joint Secretary, (AH).

Panaji, 19th March, 2013.

#### Department of Co-operation

Office of the Registrar of Co-operative Societies

#### Order

No. 9-1-81-EST-RCS/Vol.II/609

Read: 1. Order No. 8-90-2011/Creation /EST/RCS/ /647 dated 30-05-2012.

2. Addendum No. 8-90-2011-Creation/ /EST/RCS/1093 dated 28-06-2012.

Consequent upon the function of Quepem Zone and creation of one post of Asstt. Registrar of Co-op. Societies, Quepem Zone, Quepem vide Order/Addendum referred to above I hereby appoint declare the Asstt. Registrar of Co-op. Societies, Quepem Zone, Quepem as Indenting Officer for purchase of stationery for the office of Asstt. Registrar of Co-op. Societies Quepem.

By order and in the name of the Governor of Goa.

J. B. Bhingui, Registrar & ex officio Joint Secretary (Co-op. Societies).

Panaji, 28th February, 2013.

#### Department of General Administration

#### Notification

No. 2/2/2012-GAD-H

Read: Notification No. 2/2/2012-GAD-H dated 16-11-2012.

Government is pleased to declare Wednesday, 27th March, 2013 (Chaitra, 06, 1935) as "Public Holiday" instead of "Special Holiday" in the State of Goa on account of Holi as indicated in Annexure-II to the Notification dated 16-11-2012 read in preamble.

The holiday declared is under the Negotiable Instruments Act, 1881 (Act 26 of 1881).

By order and in the name of the Governor of Goa.

Harish N. Adconkar, Under Secretary (GA-I).

Porvorim, 25th March, 2013.

## Department of Labour

COMPROMISE MEMORANDUM IN REFERENCE  
INSTITUTED UNDER SECTION 10(1) (d) OF THE  
INDUSTRIAL DISPUTES ACT, 1947

Ref./IT/5/12

BEFORE LOK ADALAT

## AWARD

Workmen ... Workmen/Party I

V/s

M/s. Karishma Goods ... Employer/Party II  
Services

The Government of Goa has made the reference  
under Section 10(1)(d) of the Industrial Disputes  
Act, 1947. The Party I by presenting claim state-  
ment has prayed for:-

The demands raised by the Workmen/Union in  
their Charter of demands dated 19-4-2010 as  
mentioned in the Schedule of the reference referred  
before this Hon'ble Court be conceded in favour of  
the Workmen/Union with retrospective effect from  
01-01-2010 alongwith the payment of arrears and  
other reliefs.

We the above mentioned parties have settled  
the dispute amicably. The Party No. 1 does not  
wish to proceed further with the reference. Hence  
the reference may be disposed off accordingly.

Dated:- 13-10-2012

Workmen, represented  
by Adv. Suhas Naik

Sd/- Identified By Sd/-

Signature of the Applicant

Sd/-

Party No. II, represented by  
Adv. P. C. Chawdikar Name &  
Signature of the Opponents/ Identified By Sd/-

## AWARD

The parties have amicably settled the dispute.  
In view of pursis (Exb. A), filed by the Party I, the  
dispute does not survive. Hence the Order:-

## ORDER

1. The dispute under reference does not survive.
2. No order as to cost.

The Award be submitted to the Government of  
Goa as per provisions contained in Section 15 of  
the Industrial Disputes Act, 1947.

Dated: 13-10-2012

Sd/-

Signature of the Presiding  
Officer of Lok Adalat Panel

Place: Panaji

Sd/-

Signature of the Member  
of Lok Adalat Panel

Sd/-

Signature of the Member  
of Lok Adalat Panel

## Notification

No. 28/1/2012-Lab/624

The following award passed by the Lok  
Adalat, at Panaji-Goa on 13-10-2012 in reference  
No. IT/5/12 is hereby published as required by  
Section 17 of the Industrial Disputes Act, 1947  
(Central Act 14 of 1947).

By order and in the name of the Governor  
of Goa.

D. S. Morajkar, Under Secretary (Labour).

Porvorim, 14th November, 2012.

MEMORANDUM OF SETTLEMENT OF UNDER  
SECTION 12(3) OF THE INDUSTRIAL DISPUTES  
ACT BETWEEN THE MANAGEMENT OF M/S.  
KARISHMA GOODS SERVICES, SANQULIM AND  
THEIR WORKMAN REPRESENTED BY GOA  
TRADE AND COMMERCIAL WORKERS UNION IN  
THE MATTER OF ALLEGED REFUSAL OF EM-  
PLOYMENT

## NAMES OF THE PARTIES

Representing  
EmployerM/s. Karishma Goods  
Services,1. Shri Vivek Dessai,  
Manager.2. Adv. Prasanna  
Chawdikar, Legal  
Advisor.Representing  
WorkmenGoa Trade & Commercial  
Workers Union.Shri Suhas Naik  
Secretary.

1. Shri Sitaram Naik, Driver.
2. Shri Gopinath Mandrekar,  
Driver.
3. Shri Nilesh Hoble, Driver.
4. Shri Datta Naik, Driver.
5. Shri Khushali Mandrekar,  
Driver.

6. Shri Anilkumar Panikar, Driver.
7. Shri Bhanudas Valvaikar, Driver.
8. Shri Murari Shah, Operator.
9. Shri Byas Gupta, Operator.
10. Shri Hanumant Raj, Driver.

#### SHORT RECITAL OF THE CASE

The complaint pertaining to non-payment of monthly salary for the month of February, 2012 and March, 2012 was raised before the Office of the Asstt. Labour Commissioner, Mapusa by the Goa Trade & Commercial Workers' Union (AITUC) vide letter dated 9-4-2012. This complaint was taken up before this office and notices were sent to both the parties. During the course of the discussions the representative of the Union stated that the Workmen named in the Annexure of the said complaint have not been provided employment since February, 2012 and demanded full wages for this period.

The representative of the employer Shri Vivek Dessai, informed this office that the services of the Workmen named in the Annexure of the said complaint were transferred to Kankavli (Maharashtra) and that they failed to report at Kankavli and that the principle of no work no pay is applicable to them. The representative of the employer further stated that presently all the mining operations are suspended and all the trucks are lying idle and there is no work for these workers named in Annexure in Goa. He also mentioned that the employer is facing financial problems.

The representative of the Workmen however denied the statement made by the representative of the employer and the differences continued between both the parties.

However, after prolonged and protected discussions held between both the parties before this office, both the parties have decided to settle the present matter amicably on the following terms and conditions.

#### TERMS OF THE SETTLEMENT

1. It is agreed by the employer to treat the services of the Workmen named in the Annexure of the present settlement as if retrenched on account of non-availability of work in Goa. Accordingly the services of all the Workmen stands retrenched w.e.f. 27th September, 2012 and all the Workmen named in the Annexure stands relieved with immediate effect.
2. The Workmen and the Union agreed for the same and have agreed to accept the legal dues arising out of the retrenchment as referred in clause No. 1 above.
3. It is agreed by the employer to pay the legal dues to the Workmen, which include retrenchment compensation, gratuity and ex-gratia of 20 days per worker for every completed year of service which is more particularly shown in Annexure-I, annexed to this settlement.
4. It is also agreed by the employer to settle the case which is pending before the Industrial Tribunal under Reference No. IT/5 of 2012 pending between the Workmen and their management M/s. Karishma Goods Services, by paying sum of ₹ 10,000/- (Rupees ten thousand only) to each worker in view of the claim of the said case pending before the Hon'ble Industrial Tribunal, Government of Goa, to which the Workmen and the Union has agreed to accept the same and settle the case accordingly.
5. It is agreed between the parties that in view of the settlement of the pending case reference No. IT/5 of 2012 both parties agreed to file joint application before the Hon'ble Industrial Tribunal, Government of Goa praying for consent award in view of the present settlement of the Case No. IT/5 of 2012.
6. The employer has agreed to issue post dated cheques to each of the Workmen named in the Annexure-I of the present settlement. The detail particulars payable to each Workman including the Cheque number, the date of payment is mentioned in the Annexure-I, annexed to this settlement. As per this Annexure, the employer has agreed to pay the second instalment to the Workmen on 5th of November, 2012, third instalment on 5th of December, 2012 and fourth Instalment on 31st December, 2012. The first instalment of advance amount of ₹ 8,000/- each has already been disbursed to all the Workmen and the same is mentioned in Annexure-I, annexed to this settlement.
7. It is agreed to deduct at source an amount equivalent to 10% payable to each Workman and to pay the same to Goa Trade & Commercial Workers' Union (AITUC) by post dated cheques payable before 5th December, 2012.

8. It is agreed by the employer to give a valid service certificate to the Workmen named in the Annexure-I. (Nilesh Hoble)  
(Datta Naik)  
(Khushali Mandrekar)
9. In view of the above terms of settlement the dispute/complaint raised before this office stands conclusively settled. The Workmen further agree that they have no claim of what-so-ever nature against the employer. (Anilkumar Panikar)  
(Bhanudas Volvaikar)  
(Murari Shah)  
(Byas Gupta)  
(Hanumant Raj)
10. Both parties shall file compliance report to this office on or before 10th January, 2013. Before me

Prasad Pednekar

Asstt. Labour Commissioner,  
Panaji-Goa

## SIGNATURE OF THE PARTIES

(Vivek Dessai) (Shuhaash Naik)

Prasanna Chawdikar (Sitaram Naik)

(Gopinath Mandrekar)

Witness: 1) Sd/-  
2) Sd/-Date: 27-9-2012  
No. IRM/CON-MAP(34)/12  
Encl.: Annexure

## ANNEXURE I

18 Sep. 05 Nov.

Sr. No.	Name	Designat	Total	Union	Total	Ad-vance	Amount	I INST	II INST	Chq No.	Chq date
1	2	3	4	5	6	7	8	9	10	11	12
1.	Sitaram Naik	Driver	119027	11903	107124	4000	103124	8000	31708	41682	05-11-2012
2.	Gopinath Mandrekar	Driver	102253	10225	92028	2000	90028	8000	27342	41683	05-11-2012
3.	Nilesh Hoble	Driver	127413	12741	114672	2000	112672	8000	34890	41684	05-11-2012
4.	Datta Naik	Driver	119027	11903	107124	2000	105124	8000	32375	41685	05-11-2012
5.	Kushali Mandrekar	Driver	86718	8672	78046	4000	74046	8000	22015	41686	05-11-2012
6.	Anilkumar Panikar	Driver	86718	8672	78046	4000	74046	8000	22105	41687	05-11-2012
7.	Bhanudas Valvaikar	Driver	68707	6871	61836	2000	59836	8000	17279	41688	05-11-2012
8.	Murari Shah	Operator	96308	9631	86677	2000	84677	8000	25559	41689	05-11-2012
9.	Byas Gupta	Operator	57948	5795	52153		52153	8000	14718	41690	05-11-2012
10.	Hanumant Raj	Driver	114615	11462	103153	21000	82153	8000	24718	41691	05-11-2012
			978734	97875	880859	43000	837859	80000	252709		

05-Dec.

31-Dec

Sr. No.	Name	Designat	II INST	Chq No.	Chq date	IV INST	Chq No.	Chq date	Singnature
1	2	3	4	5	6	7	8	9	10
1.	Sitaram Naik	Driver	31708	41692	05-12-2012	31709	10852	31-12-2012	
2.	Gopinath Mandrekar	Driver	27342	41693	05-12-2012	27344	10853	31-12-2012	
3.	Nilesh Hoble	Driver	34890	41694	05-12-2012	34892	10854	31-12-2012	
4.	Datta Naik	Driver	32375	41695	05-12-2012	32375	10855	31-12-2012	
5.	Kushali Mandrekar	Driver	22015	41696	05-12-2012	22017	10856	31-12-2012	
6.	Anilkumar Panikar	Driver	21925	41697	05-12-2012	22017	10857	31-12-2012	
7.	Bhanudas Valvaikar	Driver	17279	41698	05-12-2012	17279	10858	31-12-2012	
8.	Murari Shah	Operator	25559	41699	05-12-2012	25560	10859	31-12-2012	
9.	Byas Gupta	Operator	14718	10864	05-12-2012	14718	10860	31-12-2012	
10.	Hanumant Raj	Driver	24718	10851	05-12-2012	24718	10861	31-12-2012	
			252529			252629			

**Notification**

No. 28/1/2013-Lab/99

The following award passed by the Labour Court-II, at Panaji-Goa on 16-01-2013 in reference No. IT/75/07 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

D. S. Morajkar, Under Secretary (Labour).

Porvorim, 27th February, 2013.

THE LABOUR COURT-II  
GOVERNMENT OF GOA  
AT PANAJI

(Before Shri Suresh N. Narulkar,  
Hon'ble Presiding Officer)

Case No. Ref. IT/75/07

Shri Rocky Ferrao,  
H. No. 63, Patiapura,  
Nuvem, Salcete-Goa.

... Workmen/Party I

V/s

M/s. Rammi Khanna &  
Co. Pvt. Ltd.,  
Majorda, Beach Road,  
Majorda, Salcete-Goa.

... Employer/Party II

Party I/Workman represented by Shri Subhash Naik Jorge.

Party II/Employer represented by Adv. Shri M. S. Bandodkar.

Panaji, Dated: 16-01-2013.

**AWARD**

1. In Exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa Order dated 29-09-2006, bearing No. 28/28/2006-LAB/709 referred the following dispute for adjudication by this Labour Court-II of Goa.

*"(1) Whether Shri Rocky Ferrao, Gardener, can be construed as a "Workman" as per Sec. 2 (s) of the Industrial Disputes Act, 1947, (Central Act 14 of 1947)?*

*(2) If the answer to the above Issue No. (2) above is in the affirmative, then, whether the severance of the Workman and Employer relationship between Shri Rocky Ferrao and the Management of M/s Rammi Khanna &*

*Co. Pvt. Limited, Majorda, Salcete, Goa, with effect from 14-06-2005, is on account of termination of services of Shri Rocky Ferrao, or on mutually agreed settlement between them?*

*(3) If the termination of services of Shri Rocky Ferrao, Gardener, is not legal and justified, then, to what relief the Workman is entitled?"*

2. On receipt of the reference, a case was registered under No. IT/75/07 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party I (for short 'Workman') filed his statement of claim on 03-01-2008 at Exb. 07. The facts of the case in brief as pleaded by the Workman are that he was initially employed as a 'Gardener' with M/s Maharani Guest House. He stated that the property of the said Maharani Guest House was transferred to M/s Ramesh Hotels & Resorts Pvt. Ltd. having its office at Utorda, Majorda, Salcete-Goa. He stated that his services came to be transferred to M/s Ramesh Hotels & Resorts Pvt. Ltd. after the dissolution of the firm M/s Maharani Guest House. He stated that since the year 1996, he was working as a 'Gardener' with the said M/s Ramesh Hotels & Resort Pvt. Ltd. He stated that he was working alongwith Mr. Natividade Fernandes, Mr. Menino Costa, Mr. Alex Calado and Mr. Andrew Vaz etc. He stated that one Mr. Joe Pereira was the Manager of the said M/s Ramesh Hotels & Resorts Pvt. Ltd. at the relevant period. He stated that on 10-06-2005, he was issued a letter dated 10-06-2005 signed by one Shri S. V. Balaram claiming to be a constituted Attorney of the Employer having its registered office at 3, Ruia Park, Juhu Beach, Mumbai stating that his services stands terminated w.e.f. 14-06-2005. He stated that it was alleged in the said letter that he was working as a domestic servant. He stated that it was also alleged that the Employer had lost confidence in him and that restructuring is being undertaken and hence his services are not required. He stated that the services of the other co-workers namely Mr. Natividade Fernandes, Mr. Menino Costa, Mr. Alex Calado and Mr. Andrew Vaz also came to be terminated at the same time. He stated that the services of some of the co-workers were terminated on the letter head of the Employer and some of the co workers were terminated on the letter head of M/s Ramesh Hotels & Resorts Pvt. Ltd., although they were working for M/s Ramesh Hotels & Resorts Pvt. Ltd. He stated that the directors of both the said



companies are same. He stated that prior to their termination of services, they had lodged a police complaint at Verna Police Station alleging that one of the director of M/s Ramesh Hotels & Resorts Pvt. Ltd. namely Mr. Ramesh Khanna was involved in a rape incident in the hotel premises. He stated that based on the said complaint, the Verna Police conducted an enquiry and the report of the said enquiry was communicated to the Secretary, Governor of Goa vide letter dated 14-09-2005 of the Superintendent of Police, H. Q. Panaji-Goa.

3. He submitted that aggrieved by the decision of the Employer to terminate his services, he raised a demand with the Employer demanding his reinstatement in services with full back wages and continuity in services vide his letter dated 21-06-2005. He stated that in his demand letter dated 21-06-2005, he alleged that the Employer had no authority to terminate his services as he was employed with M/s Ramesh Hotels & Resorts Pvt. Ltd. He stated that as the Employer did not accept his demand, he raised a dispute before Deputy Labour Commissioner, Margao for conciliation, which ended in failure.

4. He contended that since he was employed as a "Gardener" with M/s Ramesh Hotels & Resorts Pvt. Ltd. since 1996 till the date of his termination i.e. 14-05-2005, neither the Employer nor Shri S. V. Balaram, has authority to terminate his services. He submitted that the termination of his service is in violation of mandatory provisions of Sec. 25-F, 25-G & Sec. 25-H of the I. D. Act, 1947. He therefore contended that the termination of his services is illegal and unjustified. He submitted that Mr. S. V. Balaram has no authority to terminate his service: as he is neither the owner of the Employer nor employed with the Employer or authorized by the Employer to terminate his services. He submitted that as the said complaint was lodged by them, their services come to be terminated w.e.f. 14-06-2005. He submitted that the action of termination of his services is clearly malafide, vindictive and by way of victimization besides being legal and unjustified.

5. He submitted that since the date of his termination of his services, he is unemployed and has no source of income. He submitted that he is depending on his close family members and relations for support during this difficult period. The Workman therefore prayed for his reinstatement in service with full back wages and continuity in services.

6. The Employer filed its written statement on 24-03-2008 at Exb. 11. The Employer controverted the claim of the Workman preliminarily on the ground that the Party I was working as a 'Garden Helper' at the residential bungalow and the said place cannot be constituted as a commercial or industrial establishment or a factory or an establishment under Shops & Establishment Act as at no point of time any industrial, commercial, manufacturing or any other business activities were carried out at the said residential bungalow. The Employer submitted that the said place where the Party I was working was exclusively used for the residential purpose and therefore, the same cannot be termed as 'industrial establishment'. The Employer therefore submitted that the person working at the residential bungalow as domestic servant cannot be termed as a "Workman" as defined u/s 2(s) of the I. D. Act, 1947. The Employer submitted that the Government has failed to apply its mind while referring the present reference mechanically without asserting whether there exist an employer-employee relationship or that whether there exist an industrial dispute. The Employer submitted that the reference itself is bad-in-law and not maintainable. The Employer submitted that the Party I, having accepted all his dues from the Employer nothing remains in the matter and no dispute of whatsoever nature exists.

7. The Employer stated that for the purpose of maintenance and looking after the said bungalow, its garden, house-keeping work and for cooking purpose etc., it had engaged certain domestic servants/helpers. The Employer stated that the Party I was engaged as a domestic servant to work in the said garden as 'Garden Helper'. The Employer submitted that the Party I being a domestic worker, there was no employer-employee relationship between itself and the Party I. The Employer stated that there were no specific rules, regulations or working hours for the said domestic servant. The Employer stated that the Party I along with other workers was performing any work connected to the said bungalow, assigned to them by the manager of the said bungalow. The Employer submitted that the owner of the bungalow lost the confidence in him as the Party I along with other co-worker had filed a false, defamative and mischievous complaint against the Director at Verna Police Station at the behest of Mr. Jose Pereira alias Joe Pereira, tarnishing the image of the owner and its Director and its authorized representative. The Employer stated that a copy of the said false

complaint was forwarded to the Office of the Governor of Goa and other authorities. The Employer stated that the police authorities made thorough investigation into the said complaint and submitted their report to the Secretary, Governor of Goa. The Employer stated that the said police authority clearly revealed amongst other things that the Management due to the financial problems wants to dispose off the said property after clearing all the employees. The Employer stated that the aggrieved workers had negotiation with the Management under the leadership of Joe Pereira. The Employer stated that Shri Jose Pereira instigated all the workers and submitted the present petition on account of his illegal gain. The Employer submitted that the Party I being a domestic servant, the provisions of the I. D Act, 1947 are not applicable to him while dispensing his services or otherwise. The Employer stated that it has terminated the services of the Party I by paying an amount equivalent to notice pay, retrenchment compensation, gratuity, ex-gratia etc. on humanitarian ground though he was not entitled to legally or otherwise. The Employer stated that the Party I had voluntarily accepted the said payment and service the relation as domestic servant. The Employer stated that the said property of M/s Ramesh Hotels & Resorts Pvt. Ltd., where the Party I was working has been sold by the Employer. The Employer stated that the bungalow where the Party I was working belongs to its Director and the said working place of the Party I has no link or connection to any manufacturing, commercial or industrial activities. The Employer denied that the Party I was working as a 'Gardener' with M/s Ramesh Hotels & Resorts Pvt. Ltd. The Employer submitted that since the Party I is neither a 'Workman' nor dispute raised by him is an 'industrial dispute' within the meaning of the provisions of the I.D. Act, the question of violation of any of the provisions of the said Act including Sec. 25-F, 25-G & 25-H does not arise. The Employer denied the overall case of the Party I as pleaded in his statement of claim filed in the present proceedings and prayed for dismissal of the present reference issued by the Government.

8. Thereafter, the Party I filed his re-joinder on 01-07-2008 at Exb. 12. The Party I by way of his re-joinder reiterates and confirms all the submissions and averments made by him in his Claim Statement to be true and correct and denies all the statements and averments made by the Employer in its written statement which are contrary and inconsistent with the statements and

averments made by him. The Party I submitted that Mr. S. V. Balaram has no authority as well as locus standi to sign and present the written statement on behalf of the Employer nor does he holds a valid power of attorney to represent the Employer in the present reference and as such the matter ought to be proceeded as if no written statement has been filed by the Employer.

9. Based on the pleadings filed by the respective Parties in the present proceedings, this Court framed the following issues on 17-07-2008 at Exb. 15. The Issue No. 2-A has been re-casted vide Order dated 21-08-2012 disposing off an application of the Party I dated 23-07-2012.

1. *Whether the Workman/Party I proves that he is a "Workman" as defined u/s 2 (s) of the I. D. Act, 1947?*
2. *Whether the Workman/Party I proves that there was employer-employee relationship between him and the Party II as contemplated under the Industrial Dispute Act, 1947?*
- 2 A) *Whether the Workman/Party I proves that Shri S. V. Balaram has no authority as well as locus standi to sign and present the written statement on behalf of the Employer?*
3. *Whether the Workman/Party I proves that his termination of services w.e.f. 14-06-2005 by the Party II is illegal and unjustified?*
4. *Whether the Employer/Party II proves that the present Order of reference issued by the Government of Goa is bad-in-law?*
5. *Whether the Workman/Party I proves that he is entitled for any relief?*
6. *What Award?*

10. My answer to the aforesaid issues are as under:

Issue No. 1	In the Negative.
Issue No. 2	In the Negative.
Issue No. 2-A	In the Negative.
Issue No. 3	Does not arise.
Issue No. 4	In the Affirmative.
Issue No. 5	In the Negative.
Issue No. 6	As per final Order.

#### REASONS

11. *Issue No. 2A:* I am deciding the Issue No. 2A first prior to the Issue No. 1 & 2 as the said issue No. 2A decides the very authority of

Shri S. V. Balaram on behalf of the Employer to sign and present the written statement.

I have heard the oral arguments of the Ld. Representative Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandodkar appearing for the Employer.

I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions made by Ld. Rep. Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandodkar appearing for the Employer.

12. The Party I challenged the very authority of Shri S. V. Balaram who has signed the written statement as constituted attorney of the Employer in the present proceedings by alleging that Shri S. V. Balaram has no authority as well as locus standi to sign and present the written statement on behalf of the Employer and also to represent the Employer in the present proceedings.

13. The Employer, in order to prove its case, has examined Shri S. V. Balaram and also produced on record a copy of the power of attorney dated 03-01-2002 (Exb. E/1) as well as a copy of the resolution passed in the meeting of the Board of Directors of the Employer Company held on 03-01-2002 (Exb. E/2) in support of its oral evidence. On carefully perusal of a copy of the said resolution passed in the meeting of the Board of Directors of the Employer Company held on 03-01-2002 (Exb. E/2), it reveals that the Employer Company in its Board of Directors' Meeting held on 03-01-2002 resolved to authorize Shri S. V. Balaram as an Attorney to sign and issue necessary appointment and termination letters of the employees, laborers and consultants of the Company and to attend day-to-day matters of the Company including appointment and termination letters of the employees, laborers and consultants of the Company, etc. Further on carefully perusal of the said Power of Attorney dated 03-01-2002 (Exb. E/1) issued to Shri S. V. Balaram indicates that he is/was duly authorized to sign and issue necessary appointment and termination letters of the employees, laborers and consultants of the Company, to attend day-to-day matters of the Company including appointment and termination letters of the employees, laborers and consultants of the Company and also to represent in legal matters and appoint attorney/advocate in this regard. Thus, the said Power of Attorney as well as a copy of resolution dated 03-01-2002 on record clearly indicates that Shri S. V. Balaram is duly

authorized to act on behalf of the Employer Company to perform certain acts on stated therein. The meaning of the term "represent" is very wide and it includes signing of the written statement in the present proceedings. Thus, I do not find any merits in the submissions of Ld. Rep. Shri Subhash Naik that Shri S. V. Balaram has no authority to sign and present the written statement on behalf of the Employer and/or to represent the Employer in the present proceedings. It is therefore held that Shri S. V. Balaram is duly authorized to represent the Employer Company. The issue No. 2A is therefore answered in the negative.

*Issue Nos.1, 2 & 4:* I am deciding the Issue Nos. 1, 2 & 4 together as the said issue Nos. 1, 2 & 4 are co-related to each other.

I have heard the oral arguments of the Ld. Representative Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandodkar appearing for the Employer.

15. Ld. Representative Shri Subhash Naik representing the Party I during the course of his oral argument submitted that the Party I has produced on record an experience certificate (Exb. W/1) issued by M/s Ramesh Hotels and Resorts Pvt. Ltd. support of its oral evidence that he was working as 'Gardener' with the said Company since the year 1999 till the date of his termination w.e.f. 14-06-2005. He submitted that the said oral as well as documentary evidence adduced by the Party I on record clearly indicates that the Party I was working as gardener and performing the duties such as planting, weeding, trimming, shaping trees etc., and was also growing orchids and manuring coconut trees as well as saplings. He therefore submitted that the predominant nature of duties and responsibilities performed by the Party I are semi-skilled in nature and as such the Party I is a "Workman" within the meaning of sec. 2 (s) of the I. D. Act, 1947. He submitted that there exists an employer-employee relationship between the Employer and himself. He relied upon a decision in the case of *Madhya Pradesh Bhavan v/s Shri Shiv Kumar Tiwari and Anr*, of Hon'ble High Court of Delhi.

16. On the contrary, Ld. Adv. Shri M. S. Bandodkar, representing the Employer, during the course of his oral argument submitted that the Party I raised the present dispute pertaining to his non-employment by claiming to be a "Workman" within the meaning of section 2(s) of the I. D Act, 1947. The burden to prove that he is



a Workman as defined u/s 2 (s) of the I. D. Act, is on the Party I. He submitted that the Party I was working as garden helper at the residential bungalow of Mr. Ramesh Khanna who is the Director of the Employer Company. He submitted that there are no commercial activities of whosoever nature being carried out on the said place. He submitted that the said residential bungalow is neither commercial nor industrial establishment nor factory or registered under the G. D. D. Shops and Establishment Act, 1973. He submitted that no industrial or commercial activity was being carried on in the said residential bungalow. He submitted that all the said persons were working at the residential bungalow as domestic servants and not a "Workman" as defined u/s 2 (s) of the I. D. Act, 1947. He submitted that there does not exist any Employer-Employee relationship within the meaning of the said Act. He submitted that the reference therefore is bad-in-law. He relied upon a decision in the case of Shantaram Pandurang Jadhav and ors. V/s Kiran Industrial Premises Co-operative Society Ltd., of Hon'ble High Court of Bombay reported in 2007 III CLR 418.

I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions made by Ld. Rep. Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S Bhandodkar appearing for the Employer.

17. Being aggrieved by the order of his termination dated 10-06-2005 (Exb. W/2) issued by the Employer, the Party I challenged the same in the present order of reference by contending to be illegal and unjustified. It appears from the written statement filed by the Employer in the present proceedings, the Employer preliminarily controverted the claim of the Party I by alleging that the Party I is not a "Workman" within the meaning of Sec. 2 (s) of the I. D. Act, 1947, but he was a domestic servant working as a "garden helper" at the residential bungalow of its director namely Shri Ramesh Khanna and the said place cannot be constituted as a commercial or industrial establishment or a factory or an industrial establishment under the G. D. D. Shops and Establishment Act, 1973 and that there does not exist any Employer-Employee relationship between itself and the Party I within the meaning of the said Act. The burden to prove the said issue Nos. 1 and 2 & 4 are therefore on the Party I and the Employer respectively.

18. In order to prove his case that he is a "Workman" within the meaning of Section 2(s) of the I. D. Act, 1947, the Party I has examined himself and two witnesses namely Mr. Natividade Fernandes & Mr. Joe Pereira. On the contrary, the Employer has examined Shri S. V. Balaram its authorized signatory.

19. The Employer resisted the claim of the Party I by alleging that the Party I is not a "Workman" within the meaning of Sec. 2 (s) of the I. D. Act, 1947. The burden to prove that he is a "Workman" as defined under Section 2(s) of the I. D. Act, 1947, is on the Party I. It is therefore necessary to refer to the provisions of Sec. 2 (s) of the I. D. Act, 1947 which defines the term "Workman".

*"Section 2 (s), "Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the term of employment be expressed or implied and for the purposes of any proceedings under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or a consequence of that dispute or dismissal, discharge or retrenchment has led to that dispute, but does not include any such person*

- (1) *who is subject to the AIR Force Act, 1950 (45 of 1950) or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or*
- (2) *who is employed in the police service or as an Officer or other employee of a prison or*
- (3) *who is employed mainly in a managerial or administrative capacity*
- (4) *who, being employed in a supervisory capacity draws wages exceeding Rs. 1,600/- per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."*

20. Thus from the plain reading of definition of "Workman" under the I. D. Act, 1947, it appears that in order to prove the concerned employee is a "Workman" or not within the meaning of the said Act, he/she must prove that he/she was employed in an "Industry" as defined under the said Act and secondly he/she was employed to perform any of the work such as to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward.

21. On carefully perusal of the present order of reference issued by the Government of Goa, it appears that the Government of Goa has formed an opinion that there exist an industrial dispute between the Management of the Employer namely M/s Rammi Khanna & Co. Pvt. Ltd. and the Party I. The Government of Goa therefore, in exercise of its powers conferred by clause (c) of sub-section (1) of Sec. 10 of the Industrial Dispute Act, 1947 has referred the present dispute for it's adjudication to this Labour Court-II, Panaji-Goa constituted u/s 7 of the said Act.

22. The Party I filed his statement of claim setting forth his case in detail which is on record at Exb.7. The Party I in his statement of claim filed in the present proceedings alleged that initially he was employed as a 'Gardener' with M/s. Maharani Guest House and thereafter to M/s Ramesh Hotels and Resorts Pvt. Ltd., Uttorda, Salcete-Goa, after transfer of the said property of M/s. Maharani Guest House. The Party I further alleged that he was employed as a 'Gardener' with M/s Ramesh Hotels and Resorts Pvt. Ltd. since the year 1999 till the date of his termination w. e. f. 14-06-2005. Thus, from the pleadings of the Party I, it appears that it is the specific case of the Party I that he was employed with M/s Ramesh Hotels & Resorts Pvt. Ltd., since the year 1999 till the date of his termination of his services w.e.f. 14-06-2005 and that his services has been terminated by Shri S. V. Balaram, the authorized signatory of Ms. Rammi Khanna and Co. Pvt. Ltd., without any authority. The Party I also examined himself and two witnesses namely Mr. Natividade Fernandes and Mr. Joao Pereira. The Party I also produced on record certain documentary evidence in support of his oral evidence.

23. The oral as well as documentary evidence adduced by the Party I on record indicates that the Party I was employed with M/s Ramesh Hotels and Resorts Pvt. Ltd. since 1999 till the date of termination of his services w.e.f. 14-06-2005 and not for the Employer Company. The evidence on record indicates that the services of the Party I has been terminated by Shri S. V. Balaram while acting as Constituted attorney of M/s Rammi Khanna and Co. Pvt. Ltd. vide letter dated 10-06-2005. Thus it is crystal clear that the Party I has pleaded and also proved that he was working for M/s Ramesh Hotels and Resorts Pvt. Ltd., since 1999 till the date of termination of his services w.e.f. 14-06-2005 and that his services have been terminated by M/s Rammi Khanna and Co. Pvt. Ltd. There is nothing on record that

M/s Ramesh Hotels and Resorts Pvt. Ltd. and M/s Rammi Khanna and Pvt. Ltd. are one and the same legal entity. Thus in the absence of any evidence on record, it appears that M/s Ramesh Hotels and Resorts Pvt. Ltd. and M/s Rammi Khanna and Co. Pvt. Ltd. are separate, distinct and two different legal entities. Thus, the Party I failed to prove that he was an employee of the Employer, M/s Rammi Khanna and Co. Pvt. Ltd. and that there exists any master-servant relationship between the Employer, M/s Rammi Khanna and Company Pvt. Ltd. and himself. The Party I, having failed to prove the master-servant relationship between the Employer, M/s Rammi Khanna and Company Pvt. Ltd. and himself, also failed to prove that he is a "Workman" within the meaning of Sec. 2 (s) of the I. D. Act, 1947. No steps have been taken by either of the party to amend/modify the present order of reference issued by the Government of Goa by substituting the name of M/s Ramesh Hotels and Resorts Pvt. Ltd. in place of M/s Rammi Khanna and Co. Pvt. Ltd. Consequently the Party I also failed to prove that there exist an employer-employee relationship between M/s. Rammi Khanna and Co. Pvt. Ltd. and himself. The reference issued by the Government of Goa is therefore bad-in-law and not maintainable. The reference therefore does not survive. The Issue No. 1 and 2 are therefore answered in the negative and Issue No. 4 is answered in the affirmative.

24. *Issue No. 3:* While deciding the issue Nos. 1, 2 & 4 herein above, I have come to the conclusion and held that the Party I is not a "Workman" as defined u/s 2 (s) of the I. D. Act, 1947 and that the Party I also failed to prove that there exist any employer-employee relationship between the employer and himself as contemplated under the Industrial Dispute Act, 1947. The question of answering the issue No. 3 as to whether the termination of services of the Party I w.e.f. 14-06-2005 is illegal and does not arise at all. The issue No. 3 is therefore answered accordingly.

25. *Issue No. 5:* While deciding the issue Nos. 1, 2 & 4 herein above, I have come to the conclusion and held that the Party I is not a "Workman" as defined u/s 2 (s) of the I. D. Act, 1947 and that the Party I also failed to prove that there exist any employer-employee relationship between the employer and himself as contemplated under the Industrial Dispute Act, 1947.

The Party I is not entitled to any relief. The issue No. 5 is therefore answered in the negative.

In view of above, I proceed to pass the following order:

## ORDER

1. It is held that Shri Rocky Ferrao, Gardener's is not a "Workman" within the meaning of Sec. 2(s) of the I. D. Act, 1947.
2. It is further held that the reference as to whether the severance of the Workman and Employer relationship between Shri Rocky Ferrao and the Management of M/s Rammi Khanna & Co. Pvt. Limited, Majorda, Salcete, Goa with effect from 14-06-2005, is on account of termination of services of Shri Alex Calado, or on mutually agreed settlement between them, does not survive.
3. It is further held that the reference as to whether the termination of services of Shri Rocky Ferrao, Gardener, is not legal and justified, also does not survive.
4. The Party I, Shri Rocky Ferrao is not entitled to any relief.
5. Inform the Government accordingly.

Sd/-  
(Suresh N. Narulkar),  
Presiding Officer,  
Labour Court-II.

## Notification

No. 28/1/2013-Lab/102

The following award passed by the Labour Court-II, at Panaji-Goa on 28-12-2012 in reference No. LC-II/IT/10/10 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

D. S. Morajkar, Under Secretary (Labour).  
Porvorim, 28th February, 2013.

THE LABOUR COURT - II  
GOVERNMENT OF GOA  
AT PANAJI

(Before Shri Suresh N. Narulkar Hon'ble  
Presiding Officer)

Case No. Ref. LC-II/IT/10/10

Shri Subhash K. Parab,  
Maurecio Apartment,  
Shirvordem, Navelim,  
Salcete-Goa.

... Workman/Party I

V/s

M/s. Agency Real Margao Pvt. Ltd.,  
Mascarenhas Bldg.,  
3rd Floor, M. G. Road,  
Panaji-Goa. ... Employer/Party II  
Party-I/Workman represented by Adv. Shri S. K. Manjrekar.

Party-II/Employer marked as Ex-parte.

Panaji 28th December, 2012

## AWARD

1. In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, (Central Act 14 of 1947) the Government of Goa, by Order dated 23-04-2010, bearing No. 28/08/2010-LAB referred the following dispute for adjudication to the Industrial Tribunal of Goa. The Hon'ble Presiding Officer, Industrial Tribunal-cum-Labour Court thereafter assigned the present reference for its adjudication to the Labour Court-II vide its order dated 16-08-2010.

"(1) Whether Shri Subhash K. Parab, Salesman, can be construed as a "Workman" as per Section 2(s) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?

(2) If the answer to issue No. (1) above is in the affirmative, then, whether the action of the management of M/s. Agency Real Margao Pvt. Ltd., Margao-Goa, in refusing employment to Shri Subhash K. Parab, Salesman, w.e.f. 08-08-2005, is legal and justified?

(3) If the answer to issue No. (2) above is in the negative, then, what relief the Workman is entitled to?"

2. On receipt of the reference, a case was registered under No. LC-II/IT/10/10 and registered A/D notice was issued to the parties. In pursuance to the said notice, the parties put in their appearance. The Workman/Party I (for short 'Workman'), filed his statement of claim on 02-12-2010 at Exhibit-6. The facts of the case in brief as pleaded by the Workman are that he was initially employed by the Employer/Party II (for short 'Employer') as a 'Salesman' somewhere in the year 1975 in its firm and posted at Hubli. He stated that somewhere in the year 1976, the said Hubli wing of the Employer firm was closed and transferred at Margao. He stated that beside the sales, he was also performing other nature of duties such as clerical etc. with the Employer. He stated that the nature of duties performed by him are squarely of a Workman category. He stated that thereafter the Employer Company changed his

designation as 'Manager', but his nature of duties performed by him remained unchanged. He stated that though he was called as Manager and/or In-charge, he was not having any authority or power to supervise, administer or control over any of the employees of the Employer. He submitted that he was not having any decision taking powers or authority. He submitted that he was not assigning any duties or supervising any workers nor was he sanctioning and/or recommending any leave of any employees working at the same place. He therefore submitted that he is a 'Workman' within the meaning of Section 2(s) of the I. D. Act, 1947. He stated that he was also working for sales of the Employer's goods and therefore the Employer bifurcated his salary component per month as basic salary and commission. He submitted that the provisions of Sales Promotion Employee's (Conditions of Services) Act, 1976 are also applicable, besides the provisions of the Industrial Dispute Act, 1947.

3. He stated that he established one shop for his spouse with the consent and permission of the competent authority of the Employer. He stated that his wife was taking goods from the Employer for sales on credit basis and on his personal surety. He stated that his wife could not manage the said business properly and therefore the said business went in to financial losses and as such she could not make any payment to the Employer for the goods purchased from the Employer Company. He stated that he had issued 3 cheques drawn from the Goa Urban Co-operative Bank Ltd., bearing No. 768994, 768995 and 768996 for the total amount of ₹ 2,48,611/- (Rupees two lakh forty eight thousand, six hundred and eleven only) as per the directions of the Employer Company. He stated that despite his dedicated service, he was being ill-treated and harassed and even sometimes insulted by the authorities of the Employer for no reasons. He submitted that he was compelled and forced to submit his resignation letter dated 07-08-2005 by threat, undue force and coercion by the Director of the Employer. He stated that he was promised that his legal dues and terminal benefits would be settled in quick time, but the Employer failed to fulfill the promise given to him. He stated that he was also instructed by the said authority not to report for his duties from 08-08-2005 onwards. He stated that thus neither he was paid his legal dues nor he was allowed to report for his duties. He stated that at no point of time said resignation letter was accepted by the Employer. He stated that the Employer also obtained 4 cheques drawn from the Quepem Urban Co-operative Society Ltd.,

amounting ₹ 3,66,264/- (Rupees three lakh sixty six thousand two hundred and sixty four only) from him towards the alleged apprehended and/or estimated loss/damages if any, which might have been suffered to the Employer during the tenure of his service with the Employer Company. He stated that he, having fully known that there is no loss or any damages but as forced by the Employer submitted these cheques. He stated that there was absolutely no loss, damages and/or any mis-appropriation in the Margao depot where he was working. He stated that he had withdrawn his resignation letter vide his letter dated 02-11-2006 and requested the Employer to allow him to join his duties as 'Salesman'. He stated that on receipt of his letter of withdrawal of resignation dated 02-11-2006 and requesting him to allow to report for duties, the Employer denied the contents of his letter dated 02-11-2006 as well as letter dated 07-08-2005 vide its letter dated 13-11-2006 and alleged that he abandoned the work since 08-07-2005 and that he was liable for disciplinary action, though in reality he was not allowed to report for his duties in spite of the fact that he was ever ready and willing to report for work.

4. He submitted that neither he was issued show cause notice and/or charge-sheet nor conducted any inquiry against him, but only forced to submit the resignation by coercion, pressure and threat. He submitted that he was also not paid any retrenchment compensation, notice pay as envisaged u/s. 25-F of the I. D. Act, 1947. He submitted that at the time of refusal of employment to him, he was drawing more than ₹ 10,000/- (Rupees ten thousand only) salary which constitute the Basic Pay and Commission.

5. He submitted that after refusal of employment, he tried his level best to procure any alternate employment, however because of his age factor, he could not succeed in getting any employment. He submitted that after refusal of service he is continuously unemployed and suffering from financial difficulties. He submitted that the entire action of the Employer is illegal, unjustified and contrary to the provisions of the I. D. Act, 1947. He therefore prayed to declare that he is a 'Workman' within the meaning of Section 2(s) of the I. D. Act, 1947 and that his refusal from employment by the Employer is illegal and unjustified. He further prayed to direct the Employer to reinstate him in its service with full back wages and all other consequential benefits.



6. The Employer controverted the claim of the Party I by filing its written statement on 24-02-2011 at Exb. 7. The Employer by way of preliminary objections submitted that the reference is not maintainable as the Party I is not a "Workman" as defined u/s. 2(s) of the I. D. Act, 1947. The Employer stated that the Party I was appointed as a "Manager" and was discharging managerial functions. The Employer submitted that the present dispute is not an "Industrial Dispute" as defined u/s 2(k) of the I. D. Act, 1947. The Employer further submitted that the Party I has abandoned his service as its 'Manager' for his act of mis-appropriation which he admitted in writing. The Employer submitted that there has been no refusal of employment as alleged by him.

7. The Employer stated that the Party I was promoted to the post of "Sales In-charge-cum-Manager" w.e.f. 06-08-1996 and was discharging duties as Manager since 06-08-1996. The Employer stated that the Party I has mis-appropriated its fund while acting at its Manager and has in fact admitted the same in writing. The Employer stated that the Party I has also issued cheques towards payment of part of such amount. The Employer stated that it was only out of humanitarian grounds, they did not file any Police Complaint against the Party I. The Employer stated that the Party I had issued 3 cheques for the amount totaling to ₹ 2,48,611/- (Rupees two lakhs forty eight thousand six hundred and eleven only) vide cheque Nos. 768994, 768995 and 768996 drawn on the Goa Urban Co-operative Bank towards unpaid amount of purchase of liquor without its knowledge. The Employer stated that the Party I has abandoned his services since 08-07-2005. The Employer stated that the Party I was liable for disciplinary action and criminal prosecution also. The Employer stated that the contents of letter dated 13-11-2006 are in consonance with the factual position. The Employer stated that Section 25-F of the I.D. Act, 1947 is not applicable to Party I and there is no case of refusal of employment. The Employer denied the overall case of the Party I as pleaded in his statement of claim filed in the present proceedings and prayed for dismissal of the present reference.

8. Thereafter, the Party I filed his rejoinder on 05-04-2011 at Exhibit-9. The Workman, by way of his re-joinder denied each and every statement, averments and submissions made by the Employer vide their written statement filed in the present proceedings and reiterates and confirms the statements, averments and submissions made by him in his statement of claim.

Based on the pleadings filed by the respective Parties, this Labour Court-II framed the following issues at Exb. 10.

1. Whether the Party-I proves that he is a "Workman" as defined u/s. 2(s) of the I. D. Act, 1947?
2. Whether the Workman/Party I proves that he was compelled and forced to submit the resignation letter dated 07-08-2005 by threat, undue force and coercion by the Party II?
3. Whether the Workman/Party I proves that the said resignation letter dated 07-08-2005 was not accepted by the Party II?
4. Whether the Workman/Party I proves that the action of the Employer in refusing him employment w.e.f. 08-08-2005 is illegal and unjustified?
5. Whether the Employer/Party II proves that the Party I was performing managerial duties?
6. Whether the Employer/Party II proves that there does not exist an 'Industrial Dispute' as defined u/s. 2(k) of the I. D. Act, 1947?
7. Whether the Employer/Party II proves that the Party I abandoned his services?
8. Whether the Party I is entitled for any relief?
9. What order? What award?
10. My findings to the aforesaid issues are as under.

Issue No. 1:	In the Affirmative.
Issue No. 2:	In the Affirmative
Issue No. 3:	In the Affirmative.
Issue No. 4:	In the Affirmative.
Issue No. 5:	In the Negative.
Issue No. 6:	In the Negative.
Issue No. 7:	In the Negative.
Issue Nos. 8 & 9:	As per final order.

#### Reasons

##### Issue No. 1 and 5:

I am deciding the Issue No. 1 and 5 together as both the said issues No. 1 and 5 are co-related to each other.

I have heard the oral arguments of Ld. Adv. Shri S. K. Manjrekar appearing for the Party I. None present for, the Employer at the time of Final Arguments.

11. Ld. Adv. Shri S. K. Manjrekar representing the Party I during the course of his oral arguments submitted that the Party I, in order to prove his case that he is a 'Workman' within the meaning of Section 2(s) of the I. D. Act, 1947, has produced on record certain oral as well as documentary evidence by examining himself. He submitted that the said oral as well as documentary evidence adduced by the Party I on record, has remained unchallenged for want of denial by the Employer. He submitted that the said oral as well as documentary evidence on record clearly proves that the Party I was performing the work of clerical nature and hence the Party I is a 'Workman' within the meaning of Section 2(s) of the I. D. Act, 1947. He further submitted that though the burden to prove the issue No. 5 that the Party I was performing managerial duties is on the Employer, the Employer Company failed to adduce on record any material evidence in support of its pleading. He submitted that the Employer thus failed to discharge his initial burden of proof to prove the Issue No. 5 that the Party I was performing the managerial duties. He relied upon following decisions of Hon'ble High Court in support of his oral arguments.

1. In the case of **Maheshwar Singh v/s Indomag Steel Technology Ltd.**, reported in **2010 II CLR 431**, of Hon'ble High Court of Delhi.
2. In the case of **Chandrashekhar Chintaman Vaidya v/s National Organic Chemical Industries Ltd.**, Akola, reported in **2010 II CLR 121**, of Hon'ble High Court of Bombay.
3. In the case of **Mayank Dessai v/s Sayaji Iron and Engg. Co. Ltd.**, and anr, reported in **2011 II CLR 485**, of Hon'ble High Court of Gujarat.
4. In the case of **Pam Network Ltd., Corporate Office Bangalore v/s B. Balakrishna** reported in **2011 I CLR 180** of Hon'ble High Court of Karnataka.

I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions made by the Ld. Adv. Shri S. K. Manjrekar appearing for the Party I.

12. The Party I has raised the present dispute pertaining to his non-employment by the Employer Company. The Employer Company denied that the Party I is a "Workman" within the meaning of Section 2(s) of the I. D. Act, 1947. It is therefore necessary to refer to the provisions of Section 2(s) of the I. D. Act, 1947 which defines the term "Workman".

"Section 2(s), "Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied and for the purposes of any proceedings under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or a consequence of that dispute or dismissal, discharge or retrenchment has laid to that dispute, but does not include any such person.

- (1) who is subject to the AIR Force Act, 1950 (45 of 1950) or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or
- (2) who is employed in the police service or as an Officer or other employee of a prison or
- (3) who is employed mainly in a managerial or administrative capacity
- (4) who, being employed in a supervisory capacity draws wages exceeding ₹ 1,600/- per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

Thus the Workman means any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or rewards.

13. In the case of **Maheshwar Singh v/s Indomag Steel Technology Ltd.**, reported in **2010 II CLR 431**, the Hon'ble High Court of Delhi has held that "in the absence of any evidence to draw a conclusion that the employee was final authority so far his innovative ideas or thoughts were concerned and was not under the supervision of his superiors, the job of Draftsman as assigned to petitioner, cannot be said to fall outside the ambit and scope of definition of Workman u/s. 2(s) of the I. D. Act, 1947."

14. In the case of **Chandrashekhar Chintaman Vaidya v/s National Organic Chemical Industries Ltd.**, Akola, reported in **2010 II CLR 121**, before the Hon'ble High Court of Bombay, "the Appellant being supervisor by designation, was held not to be Workman in his ULP complaint against Respondent. The said findings of Labour Court was upheld by Industrial Court in Revision Application. The Writ Petition filed by the Complainant was rejected. The Hon'ble High Court has held that "the predominant nature of work done by employee has to be seen. Proof of facts as to the nature of duties

done by complainant, prove it to be clerical in nature. Adverse inference can be drawn against Respondent for non-production of documents called for by complainant."

15. In the case of **Mayank Dessai v/s Sayaji Iron and Engg. Co. Ltd., and anr.**, reported in **2011 II CLR 485**, the Hon'ble High Court of Gujarat has held that "*while examining the issue as to whether the employee is a Workman under the Act, the dominant purpose of employment must be first taken into consideration and the gloss of some additional duties must be rejected, while determining the status and character of the person. The Court has to decide whether the work performed by the employee, is of supervisory or managerial in nature. The label by which the post of the employee is advertised, is of no consequences. For determining the question as to whether a person employed in industry is a Workman or not, the nature of work performed by him but also the terms of the appointment in the job performed are relevant consideration.*"

16. In the case of **Pam Network Ltd., Corporate Office Bangalore v/s B. Balakrishna** reported in **2011 I CLR 180**, the Hon'ble High Court of Karnataka has held that "*when the employee is not supervising work of any employees in his section and has himself to report to his superiors, and he is neither an appointing authority nor disciplinary authority in the establishment and he does not take any policy decisions, his nomenclature or salary is not a criteria to assess the nature of his work. He is a Workman u/s. 2(s) of the I. D. Act, 1947.*"

17. Thus from the aforesaid series of decisions it is now well settled principles of law that whether a person concerned is a Workman or not within the meaning of Section 2(s) of the I. D. Act, 1947, depends upon his predominant nature of duties and responsibilities performed by him at the time of termination of his services.

18. In the case of **Berger Paints India Ltd. v/s Shri Chandrakant N. Raut and anr.**, reported in **2001 LLR 215** before the Hon'ble High Court of Bombay, the Respondent No. 1 was initially appointed as 'Sales Representative' in 1986 and subsequently promoted as 'Senior Sales Representative' in 1988. It was the duty of the Respondent No. 1 to obtain order, collect payment against goods supplied, submit daily report of sales performance, collect the outstanding from the dealer and also to appoint new dealers within the jurisdiction of Mumbai city. The Hon'ble High Court has held that "*the aforesaid duties performed by the Respondent*

*No. 1 are mainly of clerical in nature and as such the Respondent No. 1 is a 'Workman' within the meaning of Section 2(s) of the I. D. Act, 1947.*" I am bound by the precedent laid down by the Hon'ble High Court of Bombay in its aforesaid case.

19. Applying the law laid down by the Hon'ble High Court of Bombay in its aforesaid case, in the case in hand, the Party I has adduced on record certain evidence oral as well as documentary to prove his case. On the contrary the Employer neither denied the said evidence adduced on record by the Party I nor produced on record any evidence in rebuttal. Thus the evidence adduced on record by the Party I remain unchallenged for want of denial.

20. The evidence on record indicates that Party I was initially appointed as 'Salesman' in the year 1975 by the Employer. The evidence on record indicates that the Party I was doing the sale for and on behalf of the Employer. The evidence on record indicates that the Party I was also performing the clerical nature of work for the Employer. The evidence on record indicates that the Party I was assigned duties from time to time by the Employer of Workman categories and he was not doing any supervision nor recommending any leave of any Workmen. The evidence on record further indicates that though the designation of the Party I was changed as 'Sales In-Charge-cum-Manager' by the Employer in writing, his nature of duties were unchanged and he was performing the same nature of work like sale of goods of the Employer and clerical type of work. The evidence on record indicates that the Party I was not having any authority or power to supervise, administer or control over any of the employees of the Employer. The evidence on record indicates that the Party I was not having any decision taking power or any authority or any power of supervision on any Workers or sanctioning and/or recommending any leave of any employees working with the Employer. Thus the predominant nature of duties and responsibilities performed by the Party I were of clerical in nature and as such the Party I is a 'Workman' within the meaning of Section 2(s) of the I. D. Act, 1947. Thus the issue No. 1 is answered in the affirmative.

21. Though the Employer pleaded that the Party I was appointed as 'Manager' and was discharging managerial functions, the Employer failed to adduce any material evidence either oral or documentary in support of its pleading. As such the Employer failed to discharge its initial burden to prove that the Party I was discharging



managerial functions. Hence it is held that the Employer failed to prove that the Party I was discharging the managerial functions. The issue No. 5 is answered in the negative.

*Issue No. 6:*

22. I have heard the oral arguments of Ld. Adv. Shri S. K. Manjrekar appearing for the Party I. I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions made by the Ld. Adv. Shri S. K. Manjrekar appearing for the Party I.

The term 'Industrial Dispute' has been defined u/s. 2(k) of the I. D. Act, 1947 and the same is reproduced as under.

*2 (k) "Industrial Dispute" means any dispute or difference between the Employers & Employers, or between Employers & Workmen, or between Workmen and Workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person".*

Thus, in order to constitute a dispute as "Industrial Dispute" within the meaning of Sec. 2(k) of the I. D. Act, 1947, the said dispute or difference must be either between the Employers & Employers, or between Employers & Workmen, or between Workmen and Workmen and secondly, the said dispute or difference must be connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

23. In the case in hand, while deciding the issue No. 1 herein above, I have come to the conclusion and held that the Party I is a 'Workman' within the meaning of Section 2(s) of the I. D. Act, 1947. The dispute raised by the Party I pertaining to his non-employment is therefore a dispute between the Workman and the Employer. Consequently the dispute raised by the Party I is an 'Industrial Dispute' within the meaning of Section 2(k) of the I. D. Act, 1947. Thus the Employer failed to prove that the dispute raised by the Party I is not an 'Industrial Dispute' within the meaning of Section 2(k) of the I. D. Act, 1947. The issue No. 6 is therefore answered in the negative.

*Issue No. 2:*

I have heard the oral arguments of Ld. Adv. Shri S. K. Manjrekar appearing for the Party I. I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions made by the Ld. Adv. Shri S. K. Manjrekar appearing for the Party I.

24. The evidence on record indicates that the Party I started a business in the name and styled as "Malax Traders" with the consent of the Employer Company while working in the Employer Company. The evidence on record indicates that the Party I was taking some goods from the Employer Company for its sale on credit basis and some goods from the distributor namely M/s. Kerkar Marketing. The evidence on record indicates that since the Party I was taking goods from M/s. Kerkar Marketing, the authorities of the Employer started harassing him. The evidence on record indicates that on 06-07-2005 the Party I was called by the authority of the Employer at their Panaji Office alongwith his cheque book as well as cheque book of Malax Traders and other related documents of Malax Traders. The evidence on record indicates that the Party I was threatened by the Directors of the Employer and told him that if he did not act as per their instructions, he will have to face the consequences. The evidence on record further indicates that the Party I was confined in the office from morning till 6 p.m. without even food and water. The evidence on record indicates that the authorities of the Employer were threatening and pressurizing him to sign the cheques. Thus the aforesaid evidence on record clearly proves that the Party I was compelled and forced to submit the resignation letter dated 07-08-2005 by threat, undue force and coercion by the Employer. The Issue No. 2 is therefore answered in the affirmative.

*Issue No. 3:*

I have heard the oral arguments of Ld. Adv. Shri S. K. Manjrekar appearing for the Party I. I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions made by the Ld. Adv. Shri S. K. Manjrekar appearing for the Party I.

25. The evidence on record indicates that the Workman vide his resignation letter dated 07-08-2005 (Exb. W/4) addressed to the Managing Director of the Employer Company that he is resigning from the services of the Employer w.e.f. 08-08-2005. The evidence on record indicates that the Workman vide his another letter dated 02-11-2006 withdrawn his resignation letter dated 07-08-2005 by alleging that he has resigned from services under threat intimation and under coercion and continuous harassment. The Workman further deposed that the said letter of resignation is still not accepted by the Employer. The aforesaid evidence on record has neither been denied by the Employer nor produced on record any contrary evidence. Hence it is held that the



Workman proved that his resignation letter dated 07-08-2005 has not been accepted by the Employer. The issue No. 3 is therefore answered in the affirmative.

*Issue Nos. 4 & 7:*

I have heard the oral arguments of Ld. Adv. Shri S. K. Manjrekar appearing for the Party I.

26. Ld. Adv. Shri S. K. Manjrekar, representing the Workman, during the course of his oral arguments submitted that the Workman was in the employment of the Employer Company since the year 1976 till he was refused employment w.e.f. 08-08-2005. He submitted that the Employer has taken the stand that it has not refused employment to the Workman, but it is the Workman who has abandoned his job as Manager for the mis-appropriation committed by him. He submitted that it was therefore imperative on the Employer to investigate the said alleged misconduct of mis-appropriation as well as absenteeism by conducting an inquiry. He submitted that the Employer has however failed to do so. Thus the action of the Employer in refusing employment to the Workman without conducting any inquiry pertaining to alleged mis-conduct is in violation of the well established principle of natural justice and as such illegal and unjustified.

I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions made by the Ld. Adv. Shri S. K. Manjrekar appearing for the Party I.

27. In the case of **Scooter India Ltd., v/s Presiding Officer, Labour Court and anr., reported in 2010 LLR 700**, the Hon'ble High Court of Allahabad has held that "*when the Workman has been sending the Medical Certificate for his inability to join the service, the Employer without holding inquiry cannot draw a presumption that he has abandoned the job of his own accord.*"

28. In the case of **Ram Ji Misra v/s U. P. S. R. T. C. and ors.**, reported in **2010 LLR 703**, the Hon'ble High Court of Allahabad has held that "*in Industrial Jurisprudence, the principles of natural justice being essence of fair adjudication deeply rooted in tradition and conscience to be ranked as fundamental, dismissal from service of a Workman without affording opportunity of hearing is liable to be quashed.*"

29. In the case of **Bhimrao Rambhu Abhang v/s Kohinoor Engineering Company reported in 2005 LLR 939**, before the Hon'ble High Court of Bombay, the services of the Workman was terminated without holding inquiry of alleged theft

of certain articles and matter was also reported to the Police. The Employer also asked the Workman (Watchman) to resign otherwise, he will be arrested. The Employer also failed to allow him to resume his duty and terminated his services. In an Industrial Dispute before the Labour Court, the Employer alleged the abandonment by the Workman which was held to be not tenable and allowed back wages from termination till the reinstatement of the Workman. The Hon'ble High Court has held that "*even in the case of abandonment, it was imperative on the part of the Employer to hold an inquiry in view of the settled law.*"

30. In the case of **M/s. Scooters India Ltd., v/s M. Mohammad Yaqub, reported in 2001 LLR 54**, the Hon'ble Apex Court has held that "*even when the Workman remained absent and failed to report for duty, it was imperative to follow the principles of natural justice by giving the opportunity.*"

Thus, from the aforesaid series of decisions, it is well settled that in cases of voluntary abandonment of service, it is a matter of intension. It is matter of inference being drawn on given set of facts. The Employer unilaterally cannot say that the Workman is not interested in employment and it is for this reason a domestic inquiry requires to be held.

31. In the case in hand, the evidence on record indicates that the Workman was in the employment of the Employer Company since the year 1976 till he was refused employment w.e.f. 08-08-2005. The evidence on record indicates that the Workman was compelled and forced to submit the resignation letter dated 07-08-2005 (Exb. W/4) by threat, undue force and coercion by the Employer. The evidence on record indicates that the resignation letter of the Workman dated 07-08-2005 has not been accepted by the Employer till it has been withdrawn by the Workman vide his letter dated 02-011-2006. Thus the Employer was deemed to be in the employment of the Employer Company.

32. The Workman alleged that he has been refused employment w.e.f. 08-08-2005 by the Employer. On the contrary the Employer alleged that it has not refused employment to the Workman, but it is the Workman who has abandoned his services as a Manager for the mis-appropriation committed by him and also admitted in writing. The evidence on record indicates that though the Employer alleged that the Workman abandoned his services as a Manager as well as committed a misconduct of mis-appropriation, the Employer has failed to

investigate the said alleged mis-conduct on the part of the Workman by conducting a domestic inquiry against him. The Employer failed to produce on record the alleged admission of the Workman in writing admitting the mis-appropriation. The Employer also failed to produce on record any communications sent to the Workman pointing out his alleged unauthorized absenteeism and further directed him to report for duties. The Employer unilaterally cannot presume that the Workman abandoned his service. Thus the Employer failed to prove that the Workman has abandoned his service as Manager as well as committed a misconduct of mis-appropriation of its fund by appointing a neutral person as Inquiry Officer. The evidence on record indicates that the Workman has been refused employment w.e.f. 08-08-2005. The said refusal of employment to the Workman w.e.f. 08-08-2005 is in violation of well established principles of natural justice. The said refusal of employment to the Workman w.e.f. 08-08-2005 amounts to termination of services of the Workman. The said refusal of employment to the Workman is punitive in nature and it cast a stigma on the Workman.

Hence it is held that the action of the Employer in refusing employment to the Workman w.e.f. 08-08-2005 is illegal and unjustified. The Issue No. 4 is therefore answered in the affirmative and Issue No. 7 answered in the negative.

*Issue No. 8:*

I have heard the oral arguments of Ld. Adv. Shri S. K. Manjrekar appearing for the Party I. I have carefully perused the entire records of the present case. I have also carefully considered the oral submissions made by the Ld. Adv. Shri S. K. Manjrekar appearing for the Party I.

**33. In the case of Kendriya Vidyalaya Sanghathan & Ors v/s S. C. Sharma** reported in **2005 - LLR - 275 (S. C.)**, the Hon'ble Supreme Court has held that *"when the question of determining the entitlement of a person to back wages is concerned, the employee has to show that he was not gainfully employed. The initial burden is on him. After and if he places materials in that regard, the Employer can bring on record materials to rebut the claim."*

**34. In another case of Jindarsing Bahra v/s Gargo Motors Ltd., reported in 2006-LLR 1105**, the Hon'ble High Court of Gujarat has held that *"Labour Court was right in declining to award back wages when the Workmen have not deposed about their unemployment during intervening*

*period as such interference of the High Court is not warranted. The burden to prove unemployment is initially upon the Workman which can be by way of oral evidence before the Labour Court and thereafter, such burden stands shifted upon the Employer to controvert the evidence of the Workman about his unemployment during the intervening period, hence the Labour Court was right in rejecting the claim of the Workman for back wages of intervening period."*

**35. The Hon'ble Supreme Court of India in its another case of Jagbir Singh v/s Haryana State Agriculture Marketing Board & anr. reported in 2009 III CLR 628** it has been held that *"it is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of re-instatement with full back wages would ordinarily follow. However, in the recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of re-instatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee in contravention of the prescribed procedure, compensation instead of re-instatement has been held to meet the ends of justice"*.

Thus, the Hon'ble Apex Court in its various series of decisions has consistently held that a relief of reinstatement with full back wages and consequential benefits is not automatic, even if the termination of the Workman is illegal or in contravention of prescribed procedures. I am bound by the precedent laid down by the Hon'ble Apex Court in its aforesaid decisions.

**36. In the case in hand**, the evidence on record indicates that the Workman was in the employment of the Employer Company since the year 1976 continuously till the date of refusal of employment to him w.e.f. 08-08-2005. Thus the Workman has rendered around 30 years service with the Employer Company. The evidence on record indicates that the Workman was refused employment on the alleged ground of abandonment as well as alleged misconduct of mis-appropriation of fund without holding any inquiry by appointing an Inquiry Officer. The evidence on record indicates that besides the aforesaid alleged misconduct of abandonment as well as alleged misconduct of mis-appropriation of fund, there is no any other adverse allegations made against the Workman. The evidence on record indicates that the Workman has tried his

level best to procure an alternate employment however because of his age factor and other reasons he could not succeed in getting an employment. The evidence on record indicates that the Workman is gainfully unemployed and suffering financial difficulties. Thus taking in to consideration the relevant factors like age, number of years of service, qualification etc. I am of the opinion that the reinstatement of the Workman alongwith 50% back wages and consequential benefits will meet the ends of justice.

In view of above, I proceed to pass the following order.

#### ORDER

1. It is held that the Party I Shri Subhash K. Parab, Salesman is a Workman as defined u/s 2(s) of the Industrial Disputes Act, 1947.
2. It is further held that the action of the management of M/s. Agency Real Margao Pvt. Ltd., Margao-Goa in refusing employment to Shri Subhash K. Parab w.e.f. 08-08-2005 is illegal and unjustified. It is ordered that the Workman Shri Subhash K. Parab be reinstated in the service of the Employer along with 50% back wages and consequential benefits.
3. No order as to cost.
4. Inform the Government accordingly.

Sd/-  
(Suresh N. Narulkar),  
Presiding Officer,  
Labour Court-II.

#### Department of Law and Judiciary

Law (Establishment) Division

#### Order

File No. LS/1077/93-Part/401

Government of Goa is pleased to appoint Adv. Shri Nikhil Deelip Pai as Additional Government Advocate to appear and defend the interests of the Government in the matters before the High Court of Bombay at Goa, Panaji with immediate effect and until further orders.

He will be paid fees as per the existing terms and conditions laid down by the Government, applicable to Additional Government Advocates, amended from time to time, on submission of bills (in duplicate) along with the attendance

certificate, issued by the Registrar of the High Court of Bombay, Panaji-Goa. He should comply with the instructions contained in the Government Circular No. 4-43-99/LD dated 4-5-2000. He will appear in those matters, which would be allotted to him by the Ld. Advocate General.

By order and in the name of the Governor of Goa.

*Vasanti H. Parvatkar*, Under Secretary (Law-Estt.).

Porvorim, 15th March, 2013.

#### Department of Personnel

#### Order

File No. 6/5/2011-PER

Shri Vijay M. Paranjape, Director of Social Welfare, shall hold charge of the post of Administrative Officer, Goa State Commission for Backward Classes, in addition to his own duties, with immediate effect and until further orders.

By order and in the name of the Governor of Goa.

*N. P. Singnapurker*, Under Secretary (Personnel-II).

Porvorim, 19th February, 2013.

#### Order

File No. 22/8/2005-PER

Governor of Goa is pleased to order the transfer on deputation of Shri Jose Allen Fred De Sa, Superintendent of Police (Costal Security/ /Economic Offences) and post him as ADC to Hon'ble Governor of Goa with effect from 30-03-2013, in public interest.

Shri Jose Allen Fred De Sa, Superintendent of Police shall hold the charge of the post of Superintendent of Police, (Costal Security/ /Economic Offences) in addition to his own duties.

The deputation of Shri Jose Allen Fred De Sa, as ADC will be for a period of three years or until further order whichever is earlier and shall governed by standard terms of deputation as contained in this Department's Office Memorandum No. 13/4/74-PER dated 12-2-1999, as amended.

By order and in the name of the Governor of Goa.

*Siddhi Halarnakar*, Under Secretary (Personnel-II).

Porvorim, 20th March, 2013.

**Order**

File No. 6/4/2008-PER (Vol.I)

The ad hoc appointment of the following officers in Senior Scale of Goa Civil Service, is extended further for the period indicated against their names, or till the appointment is made on regular basis, whichever is earlier:

Sr. No.	Name of Officer	Ad hoc appointment extended upto
1.	Shri S. G. Korgaonkar	01-03-2013 to 31-07-2013 (upto the date of retirement).
2.	Shri Nikhil U. Dessai	01-03-2013 to 28-02-2014.
3.	Shri Sunil P. Masurkar	01-03-2013 to 28-02-2014.
4.	Shri N. S. Navti	01-03-2013 to 28-02-2014.
5.	Shri P. K. Velip Kankar	01-03-2013 to 28-02-2014.
6.	Shri Prasanna A. Acharya	01-03-2013 to 28-02-2014.
7.	Shri M. K. Vasta	01-03-2013 to 28-02-2014.
8.	Shri Vijay M. Paranjape	01-03-2013 to 28-02-2014.
9.	Shri Gopal A. Pasekar	01-03-2013 to 28-02-2014.
10.	Shri Meghanath Porab	01-03-2013 to 28-02-2014.
11.	Smt. Shabari Manjrekar	13-11-2012 to 12-11-2013.
12.	Shri Venancio Furtado	13-11-2012 to 12-11-2013.

This is issued with the approval of GPSC conveyed vide their letter No. COM/II/11/42(3)/2012/3413 dated 15-03-2013.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 15th March, 2013.

**Corrigendum**

File No. 7/2/99-PER/(PF-III)

Read: 1) Order No. 7/2/99-PER/PF-III dated 27-02-2013.

For the words "this Administration" in the second and third line of the order read in preamble the word "Secretariat" shall be substituted.

By order and in the name of the Governor of Goa.

*Umeshchandra L. Joshi*, Under Secretary (Personnel-I).

Porvorim, 18th March, 2013.

**Department of Public Health**

—

**Order**

No. 7/4/2003-I/PHD

Read: 1) Order No. 7/4/2003-I/PHD/4122 dated 01-11-2012.

On the recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/II/11/56(8)/92/2967 dated 10-01-2013, the ad hoc promotion of the following Deputy Directors under the Directorate of Food & Drugs Administration, Altinho, Panaji, presently promoted on regular basis to the post of Deputy Director with effect from 01-11-2012 is extended for the period mentioned against their names.

Sr. No.	Name of the Officer	Date of extension
1.	Smt. Joyti J. Sardessai	01-09-2012 to 31-10-2012.
2.	Shri Rajendra R. Naik	23-09-2012 to 31-10-2012.

By order and in the name of the Governor of Goa.

*Anju S. Kerkar*, Under Secretary (Health).

Porvorim, 12th March, 2013.

**Department of Revenue**

—

**Order**

No. 23/9/2010-RD

Whereas, the Government of Goa, vide Notification No. 23/9/2010-RD dated 30-12-2010, issued under sub-section (1) of Section 4 of the



Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 24, dated 06-01-2011, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. L. A. for improvement and widening the road from Durgabhat to Bondhbag for a length of 2-00 kms. in Ponda Constituency (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa, considered the report made by the Collector under sub-section (2) of Section 5A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/9/2010-RD dated 20-12-2011, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 40 dated 05-01-2012, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, North-Goa District, Panaji-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).

Porvorim, 19th March, 2013.

#### Notification

No. 23/11/2012-RD

Whereas by Government Notification No. 23/11/2012-RD dated 06-06-2012 published at pages 594 to 596 No. 11 Series II of the Official Gazette, dated 12-06-2012 and in two local newspapers namely "Times of India" dated 08-06-2012 and "Gomantak" dated 08-06-2012 it was notified under Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that the land, specified in the Schedule appended to the said Notification (hereinafter referred to as the said land) was needed for the public purpose viz. Land Acquisition for construction of road at Monteirawado, Francis Pereirawado, Francis Costawado Calata Majorda, Utorda, in Village Utorda of Salcete Taluka.

And whereas, the Government of Goa (hereinafter referred to as "the Government") after considering the report made under sub-section (2) of Section 5-A the said Act is satisfied that the land specified in the Schedule hereto is needed for the public purpose specified above (hereinafter referred to as "the said land").

Now, therefore, the Government hereby declares, under the provisions Section 6 of the said Act that the said land is required for the public purpose specified above.

The Government also hereby appoints, under clause (c) of Section 3 of the said Act, the Special Land Acquisition Officer, Salaulim Irrigation Project, Water Resources Department, Gogal, Margao-Goa to perform the functions of the Collector for all proceedings hereinafter to be taken in respect of the said land and directs him under Section 7 of the said Act to take order for the acquisition of the said land.

A plan of the said land can be inspected at the Office of the Special Land Acquisition Officer, Salaulim Irrigation Project, Water Resources Department, Gogal, Margao-Goa till the award is made under Section 11.

#### SCHEDULE

(Description of the said land)

Taluka: Salcete		Village: Utorda
Survey No./ Sub-Div. No.	Names of the persons believed to be interested	Approx. area in sq. mts.
1	2	3
18/2	O: 1. Baldomiro Rebello. OR: House owned by Sebastiao Ratos.	98
18/6	O: Eufemino da Braganza e Pereira.	168
18/7	O: Fr. Lourdinho Romualdo Pereira.	154
18/8	O: Maria Asumpta Gorreti Pereira e Vaz.	62
18/9	O: Baldo Mero Rebello.	3
18/10	O: Bento F. de Jesus dos Martyres Pereira.	191
18/11	O: Pascoal Pereira. Antonio Pereira.	93
18/13	O: Baldomiro Rebello.	178
85/3	O: 1. Olivio Santos Pereira. 2. Aquino Santos Pereira. (From form III)	1520

1	2	3	1	2	3
85/7	O: Jucina Lucia Flora Antao e Pereira alias Jucina Fernandes.	245	89/2	O: Francis Xavier Alexo D'Silva.	126
85/8	O: Maria Costa alias Marianinha da Costa. Damiao Antonio Rodrigues. Argelia Godinho e Rodrigues.	3	89/5	O: Joao Laurante Pereira.	173
85/9	O: Maria Nisserata. Gransmila Dias e Barros Pereira.	127	89/7	O: Peter Luis Pereira.	192
85/10	O: Cyrillo Fernandes. Anney Cardozo e Fernandes.	55	OR: House of Joaquina Noronha. House of Pedru Noronha.		
85/11	O: Espertina Carvalho.	86	89/8	O: Alex Soares	20
85/12	O: Joao Paulo Rato. Baltazar Rato. Lourdina Rato. Nerifa Rato.	6	89/9	O: Ana Joaquina D'Silva Soares.	12
OR: House of Antonio Jose Ratos.			90/2	O: Savio Vicente Pereira.	237
87/3	O: Antonio Ressurecao Patrociono Pereira.	875	90/6	O: Pascoal Pereira. Antonio Pereira.	50
OR: House owned by Anton Francis Costa.			91/1	O: Jose Antonio Francisco Filomeno da Chagas. Piedade e Costa Josezito de Costa.	95
87/8	O: 1. Ritten Piedade Rodrigues Soaries	295	91/2	O: Leonardo Azaredo.	231
2. Damiao Gomes.			91/3	O: Jose Minguel D'Souza.	156
3. Louranco Gomes.			91/4	O: Gabriel Azaredo.	60
87/12	O: Walfrido Antao.	3	91/5	O: Joaquim Domingos Azavedo.	57
87/22	O: Gregorina D'Silva e Soares.	59	91/6	O: Antonio Francisco Azavedo.	59
87/23	O: Marcelino Agnelo Braganza.	55	91/11	O: Pascol Pereira.	169
88/1	O: Afonco Pobres Soares. Mira Soares. Maria Fatima Tolentina Soares.	219	OR: House of Filipino Dias.		
88/3	O: Gregorina D'Silva e Soares.	374	98/22	O: Agustino Pereira.	15
88/4	O: Francisco Antao. Francisco Naplian Soares.	27	<i>Boundaries :</i>		
88/4-A	O: Menino Francisco Fernandes.	15	North : 77/12, 13, 14, 15, 80/1, 79/2, 85/1, 2, 3, 7, 5, 6, 87/8, Nalla, 88/5, 1, 3, 4-C, 91/1, 2, 98/20, 22, 18/9, 13, 2.		
88/4-B	O: Necessidade Rodrigues.	61	South : 77/12, 13, 14, 15, 80/1, 79/2, 3, 4, 85/3, 8, 12, 11, 10, 9, 87/3, 8, 88/5, 6, 4-C, 16, 89/5, Road, 91/4, 1, 2, 3, 8.		
88/4-C	O: Francisco Napoleon Soares.	67	East : Road, 91/3, 2, 11, 12, 90/2, 6, 89/9, 8, 5, 2, 88/14, 3, 91/4, 5, 87/20, 16, 13, 12, 8, 2, Nalla, 85/8.		
88/5	O: Maria Nicerata Grasmila Dias Barros Pereira.	246	West : 77/12, 85/3, 7, Road, Nalla, 87/3, 8, 22, 23, 88/3, 4, 4-B, 13, 15, 14, 89/2, 5, 7, 90/5, 2, 91/11, 6, 5, 4, 2.		
88/13	O: Joao Antao.	55	Total: 7195		
88/14	O: Francisco Xavier Aleixo.	59	<i>Taluka: Salcete</i>		
88/15	O: Gabriel Azavedo.	134	<i>Village: Majorda</i>		
88/16	O: Francisco Azaredo alias Francisco Antonio. Vicente Pascoal de Jesus Azaredo.	10	6/1	O: Guilermina Da Costa Alvares.	24
			6/2	O: Comunidade of Majorda. T: Erico Carlos Vaza.	159

1	2	3
6/4	O: Comunidade of Majorda. T: Jose Menino D'Silva.	66
6/5	O: Menino Innocencio Vaza.	61
6/6	O: Comunidade of Majorda. T: Rusado Fernandes.	47
6/28	O: Comunidade of Majorda. T: Maria Antonieta Baptista.	40
6/29	O: Antonio Francisco Vaz.	62
6/32	O: 1. Eleuterio Refrigio Vaz. 2. Moses Diogo Vaz.	47
7/2	O: Comunidade of Majorda. T: Francisco Carvalho.	56
7/5	O: Assuciana Pereira.	49
<i>Boundaries :</i>		
North : Road.		
South : S. No. 7/8.		
East : S. No. 6/1, 2, 4, 5, 6, 28, 29, 32, 7/2, 5.		
West : S. No. 6/1, 33.		
Total: 611		
Grand Total: 7807		

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).  
Porvorim, 20th March, 2013.

#### Notification

No. 23/11/2013-RD

Whereas it appears to the Government of Goa (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose, viz. Land Acquisition for construction of road at Thonwado, Bhimwado, Gonsua in Betalbatim Village (Addl. Area) of Salcete Taluka.

Now, therefore, the Government hereby notifies under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act") that said land is likely to be needed for the purpose specified above.

All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said

land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this notification, will under clause (seventh) of Section 24 of the said Act be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part the fact will also be notified in the same manner.

The Government further appoints under clause (c) of Section 3 of the said Act, the Deputy Collector (LA), South-Goa Margao, Goa to perform the functions of a Collector, under the said Act in respect of the said land.

The Government also authorizes under sub-section (2) of Section 4 of the said Act, the following Officers to do the acts, specified therein in respect of the said land.

- 1) The Collector, South Goa District, Margao-Goa.
- 2) The Deputy Collector (LA), South-Goa, Margao-Goa.
- 3) The Executive Engineer, W D VI, (R-S), PWD, Fatorda, Margao-Goa.
- 4) The Director of Settlement and Land Records, Panaji-Goa.

A rough plan of the said land is available for inspection in the Office of the Deputy Collector (LA), South-Goa, Margao-Goa for a period of 30 days from the date of publication of this Notification in the Official Gazette.

#### SCHEDULE

(Description of the said land)

Taluka: Salcete		Village: Betalbatim
Survey No./ /Sub-Div. No.	Names of the persons believed to be interested in land	Approx. area in sq. mts.
1	2	3
89/5 P	O: Ezaltasao D'Souza.	25
115/4 P	O: Thomas R. Cana.	200

1	2	3
140/10 P	O: 1. Joaquim Joao Mateus Gomes. 2. Maria Odette G. Barret D'Costa.	92
143/8 P	O: Ermelao Pereira Carvalho.	190
143/12 P	O: Diogo Jose Carvalho.	132
166/2 P	O: Eusebio Goes.	125
148/11 P	O: 1. Fabiao Costa. 2. Jose Francisco Alberto Rogtao. 3. Francisco Agnelo Santan Rogtao.	70
<i>Taluka: Salcete</i>		<i>Village: Gonsua</i>
15/15 P	O: 1. Francisco Pereira. 2. Jovita Milagrina Pereira.	94
18/9 P	O: 1. Nasario Santana Do Rosario Pereira. 2. Lodovina Correia e Pereira.	266
<i>Taluka: Salcete</i>		<i>Village:</i>
<i>Betalbatim</i>		
141/3 P	O: Roque Inacio Pereira.	195
141/7 P	O: Menino Rebelho.	100
141/12 P	O: Caitano Mannel Ratos.	25
142/8 P	O: Caetano Manuel Ratos.	35
142/1 P	O: 1. Carafina Catarina Pereira. 2. Pobres Alvitos Pereira. 3. Jose Remedios Pereira. 4. Bonifacio Pereira.	265
142/2 P	O: 1. Josin Ratos. 2. Bial Ratos. 3. Caitano Ratos. 4. Peter Ratos. 5. Hilario Militao Ratos.	205
121/1 P	O: Antonio Filomena Antao.	55
121/4 P	O: 1. Jose Pedro Lourdes Rodrigues. 2. Alvis Rodrigues. 3. Rosa Amelia Costa Rodrigues.	65
121/5 P	O: Hilario Noronha.	75
121/6 P	O: 1. Jose Pedro Lourdes Rodrigues. 2. Alvis Rodrigues. 3. Rosa Amelia Costa Rodrigues.	55
121/7 P	O: 1. Antonio Nonoto. 2. Cupertino Noronha.	15
121/2 P	O: Palmira Cota.	345
157/10 P	O: 1. Wilson Marcus Anthony Pereira Cavalho. 2. Roshan Mascarenhas e Pereira Carvalho.	75

1	2	3
157/11 P	O: 1. Sergio de Jesus Jose Maria Filomena do Rosario Carvalho. 2. Ryan Sergio Carvalho. 3. Arcanjela Berta Rodrigues. 4. Shalfin Priya Rodrigues e Pereira. 5. Baptist Cost.	200
98/2 P	O: Olavo Antonio Do Perpetuo Socorro. Alemao alias Olavo Alemao. 2. Jeanette Alemao.	3055
<i>Boundaries :</i>		
<i>Village : Betalbatim</i>		
<i>North : Road, S. No. 115/1, 140/10, 166/1, 148/7.</i>		
<i>South : S. No. 89/6, 115/8, 143/22, 167/1.</i>		
<i>East : S. No. 89/7, 115/4, 143/8, 166/2.</i>		
<i>West : S. No. 89/8, Nalla, S. No. 140/10, 143/12, 148/7, 21.</i>		
<i>Village : Gonsua</i>		
<i>North : S. No. 15/6, 18/9.</i>		
<i>South : Village Majorda, S. No. 18/12.</i>		
<i>East : S. No. 15/15, 18/09.</i>		
<i>West : S. No. 15/14, 18/11.</i>		
<i>Village: Betalbatim</i>		
<i>North : S. No. 141/6, 3, Road, 157/5, 98/1.</i>		
<i>South : S. No. 141/7, 8, 9, 142/2, 113/1, 157/11, 98/3.</i>		
<i>East : Road, S. No. 142/1, 2, 121/2, 157/10, 11, 100/68 to 70, 72, 73, 76, 77, 79, 80, 82.</i>		
<i>West : S. No. 141/2, 9, 141/12, 142/8, 1, 143/5, 6, 121/1, 4, 6, 7, 157/7, 11, Arabian Sea.</i>		
		Grand Total: 5959

By order and in the name of the Governor  
of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).  
Porvorim, 21st March, 2013.



**Department of Women & Child Development**

Directorate of Women &amp; Child Development

**Order**

F. No. 2-107(56)-2009/DW&amp;CD/ICPS/3547

In order to ensure effective implementation of the Integrated Child Protection Scheme (ICPS) in the State, Government hereby constitutes the State Project Support Unit (SPSU) with immediate effect as under:

1. Secretary, Women & Child Development ... Chairperson.
2. Chairperson, Commission for Protection of Child Rights ... Member.
3. Director of Health Services ... Member.
4. Director of Education ... Member.
5. Director of Prosecution ... Member.
6. Inspector General of Societies/District Registrar, North ... Member.
7. Representative of Police Department not below the rank of Suptd. of Police ... Member.
8. Chairperson, Child Welfare Committee (North) ... Member.
9. Chairperson, Child Welfare Committee (South) ... Member.
10. Representative of SCAN (India), NGO ... Member.
11. Representative of Child Rights in Goa (CRG), NGO ... Member.
12. Representative of CHILD-LINE ... Member.
13. Director, Women & Child Development ... Member Secretary.

The roles and responsibilities of SPSU will include:

- i. Develop a Plan of Action for initiating the implementation of ICPS in the State/UT.
- ii. Facilitate setting up of required structures and child protection mechanisms visualized under ICPS, viz., SCPS, SARA, DCPS, ACA, SAA, SCPC, DCPC, etc.
- iii. Collect, compile and regularly update the State level information on the status of child protections institutions and key elements of their functioning in the districts.

iv. Facilitating setting up and management of a State level child tracking system and a missing children website with the help of DCPSs.

v. Carry out baseline survey in selected districts and follow up to assess the impact of the ICPS for the purpose of course correction, where necessary.

vi. Carry out training and sensitization of the concerned officials of the line departments of the State Government/UT.

vii. Ensure technical capacity built at centre and in selected States for initial implementation of ICPS.

viii. Develop and disseminate awareness raising materials on the ICPS.

ix. Document and disseminate best practices.

x. Monitor and evaluate implementation of ICPS throughout the State.

By order and in the name of the Governor of Goa.

*Sunil P. Masurkar*, Director & ex officio Joint Secretary (Women & Child Development).

Panaji, 18th March, 2013.

**Department of Printing & Stationery**

Government Printing Press

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Published and Printed by the Director, Printing & Stationery,  
Government Printing Press,  
Mahatma Gandhi Road, Panaji-Goa 403 001.

**PRICE—Rs. 26.00**

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA-417/420-3/2013.